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Burnet R. Maybank, III
Member
Admitted in SC

April 19, 2007

The Honorable Charles Terreni
Chief Clerk of the Commission
Public Service Commission of South Carolina
Post Office Drawer 11649
Columbia, South Carolina 29211

Re: Brief of Alltel Communications, Inc.
Docket No. 2006-37-C-Order No. 2007-193

Dear Charlie:

Enclosed for filing is the original Brief of Alltel Communications Inc. regarding the petition of the Office of Regulatory Staff for a Rule Making Proceeding to Examine the Requirements and Standards to be Used by the Commission When evaluating Applications for Eligible Telecommunications Carrier (ETC) Status and When Making Annual Certification of ETC Compliance to the Federal Communications Commission.

The enclosed document is an exact duplicate, with the exception of the form of the signature, of the e-filed copy submitted to the Commission in accordance with its electronic filing instructions.

Yours very truly,



Burnet R. Maybank, III

BRM/caa

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BEFORE
THE PUBLIC SERVICE COMMISSION
OF SOUTH CAROLINA
DOCKET NO. 2006-37-C-ORDER NO. 2007-193

IN RE:

Petition of the Office of Regulatory Staff for a Rule Making Proceeding to Examine the Requirements and Standards to Be Used by the Commission When Evaluating Applications for Eligible Telecommunications Carrier (ETC) Status and When Making Annual Certification of ETC Compliance to the Federal Communications Commission.

**BRIEF OF ALLTEL
COMMUNICATIONS, INC.**

This matter comes before the Public Service Commission of South Carolina ("the Commission") for further consideration of the designation of Eligible Telecommunications Carriers ("ETCs"). Recently, the Commission determined that it would file proposed regulations to govern designation of ETCs. However, with regard to pending applications for designation of ETC status, the Commission unanimously expressed concern about further delaying consideration of these applications on their merits, as well as any applications that may be brought during the pendency of the consideration of the Commission's proposed regulations. The Commission requested that interested parties file briefs regarding whether the Commission should consider the FCC's recommended guidelines for designation of ETCs during the interim period prior to the issuance of its own ETC regulations. Alltel has submitted its own application for designation as an ETC for Federal universal service in South Carolina, and accordingly submits this Brief in support of the Commission's Order.

THIS DOCUMENT IS AN EXACT DUPLICATE, WITH THE EXCEPTION OF THE FORM OF THE SIGNATURE, OF THE E-FILED COPY SUBMITTED TO THE COMMISSION IN ACCORDANCE WITH ITS ELECTRONIC FILING INSTRUCTIONS

I. INTRODUCTION

The Commission specifically seeks comments regarding whether the Commission should consider the FCC's May 25, 2005 recommended guidelines for designation of new ETCs. Alltel strongly supports this position with one limited exception, as stated below.

II. THE COMMISSION SHOULD FOLLOW THE FCC GUIDELINES WITH LIMITED EXCEPTIONS

A. Federal Regulations

The FCC adopted new requirements for telecommunications carriers to meet in order to be designated as an ETC in its Universal Service Order released on March 17, 2005. The FCC described the purpose of the order as follows:

This Report and Order addresses the minimum requirements for a telecommunications carrier to be designated as an "eligible telecommunications carrier" or "ETC," and thus eligible to receive federal universal service support. Specifically, consistent with the recommendations of the Federal-State Joint Board on Universal Service (Joint Board), we adopt additional mandatory requirements for ETC designation proceedings in which the Commission acts pursuant to section 214(e)(6) of the Communications Act of 1934, as amended (the Act).¹ In addition, as recommended by the Joint Board, we encourage states that exercise jurisdiction over ETC designations pursuant to section 214(e)(2) of the Act, to adopt these requirements when deciding whether a common carrier should be designated as an ETC.² We believe that application of these additional requirements by the Commission and state commissions will allow for a more predictable ETC designation process.³

The Universal Service Order is the result of an exhaustive investigation undertaken by the Joint Board wherein the Joint Board held public hearings and received significant input from service providers, consumer representatives, and state and federal regulators. This input was critical to

¹ 47 U.S.C. § 214(e)(6). Section 214(e)(6) of the Act directs the Commission to designate carriers when those carriers are not subject to the jurisdiction of a state commission.

² 47 U.S.C. § 214(e)(2). Section 214(e)(2) of the Act provides state commissions with the primary responsibility for designating ETCs.

³ *In the Matter of Federal-State Joint Board on Universal Service*, Report and Order, CC Docket 96-45 (rel. March 17, 2005). ("Universal Service Order") at ¶ 1.

develop a comprehensive recommendation regarding ETC matters for consideration by the FCC. Subsequent to the filing of the Joint Board's recommendation, the FCC received additional comments from a broad range of parties that were considered by the FCC in reaching its March 17, 2005, Report and Order.

The result of these extensive national efforts is a highly debated, thoughtfully considered set of comprehensive rules adopted by the FCC for use in designating and certifying ETCs. The FCC encouraged states that exercise jurisdiction over ETC designations to adopt the requirements of the Universal Service Order.⁴ The FCC emphasized that application of a common set of requirements by the FCC and state commissions will provide a more predictable designation process and improve the sustainability of the universal service fund.⁵

Alltel agrees with the FCC's statements. While the Universal Service Order does not resolve all issues in the exact manner that Alltel would have preferred, the Universal Service Order provides a mechanism that, if applied uniformly to ETCs, will achieve the objectives of universal service envisioned by the Telecom Act in a sufficient and sustainable manner. Alltel encourages the Commission to follow these standards for designate additional ETCs during the interim period prior to the issuance of South Carolina specific regulations. Should the Commission apply different standards for South Carolina state designations, then Alltel and other national and regional competitive providers would be subject to different and potentially conflicting standards for operations within the state of South Carolina than for operations in other states, thereby creating obvious inefficiencies and unnecessary additional costs.

Uniform standards will serve to bring efficiency and predictability to the ETC process and will therefore benefit consumers. Alltel is subject to the FCC's rules in those states where it

⁴ Universal Service Order at ¶ 2.

⁵ Universal Service Order at ¶¶ 1 and 2.

has been designated as an ETC by the FCC (Alabama, Florida, Georgia, North Carolina, Virginia). Numerous other states that have designated Alltel as an ETC have adopted the FCC or are presently considering adopting. Following the FCC guidelines will allow South Carolina to remain consistent with the FCC designation process and with the designation processes of many other states.

These FCC rules⁶ are comprehensive and are the result of significant national debate and analysis. Alltel agrees with the FCC's efforts to encourage states to adopt the requirements contained in the Universal Service Order rather than state specific requirements that would add unnecessary complexity to an already complex process. Alltel encourages the Commission to follow these standards, with one exception, for use in South Carolina.

B. Exception to the Federal Standards

Alltel advocates that the Commission follow the requirements of the FCC rather than state specific requirements in order to bring uniformity to ETC designation and certification processes while ensuring that consumers receive the benefits of universal service envisioned by the Act. However, in the case of the required service improvement plan, a modification to require a two-year plan rather than a five-year will accomplish the same objective in a more efficient manner. In the course of normal business, capital budgeting is simply not developed at any significant level of detail for a five-year period. The last three years of any five-year plan would be little more than a broad guess as to what will actually be implemented for the those years.

The FCC's five-year service improvement plan requirement is presently subject to a petition for reconsideration. On June 24, 2005, the CTIA filed a Petition for Reconsideration with the FCC in CC Docket 96-45, asking that the FCC replace the five-year planning

requirement with a twelve to eighteen month plan. In its petition the CTIA stated, “Wireless carriers face too many variables to accurately and predictably project or plan their network improvements for five years in the future. Moreover, the variables are often outside the control of the wireless carrier. Technological innovations and changing customer needs require carriers to constantly update their plans. Population patterns change, affecting where improvements in the network are needed.” Alltel agrees with CTIA. Five-year plans are not realistic for any American business and especially not for telecommunications providers because of the rapidly changing marketplace and the rapid evolution of new technologies. Any attempt to develop a network plan beyond an eighteen to twenty-four month window is extremely unreliable. Market conditions and technology are changing so rapidly that any plans beyond this window are certain to change greatly. Alltel believes that the Commission would be better served and that carriers will be able to provide more useful information if this requirement is modified to require, at most, a two-year build out plan rather than a five-year plan. Other states, including California, Colorado, Minnesota, Mississippi, South Dakota and Wyoming, have recognized this and adopted shorter service improvement plans.

Under a two-year plan requirement, data for the latter years of a five-year plan would be provided as part of subsequent two-year plans, when it is more reflective of actual expenditures. The Commission would still receive build out information well in advance of the actual expenditures, but at a time when the provided information is more accurate. Alltel requests that the Commission establish a two-year service improvement plan requirement rather than a five-year requirement. Alltel believes that a two-year plan will provide the Commission with all of the meaningful information it needs to ensure that each ETCs service improvement plan is in compliance with all applicable requirements.

⁶ See 47 C.F.R. Part 54.

C. Comments Made by the South Carolina Telephone Coalition (SCTC)

The SCTC earlier provided comments to the Commission Directive dated February 7, 2007. These comments basically stated that the PSC was without authority to designate ETCs until the PSC had promulgated a regulation on the subject.

The SCTC is hardly in a position to argue that the Commission must promulgate regulations prior to ETC certification. Most, if not all, of the SCTC Members themselves receive federal ETC support - - all without the benefit of such a regulation. Specifically, the PSC is required to annually re-certify ILECs for ETC status. Most, if not all of the SCTC Members are annually recertified to the FCC by the PSC as eligible for continued ETC status. While the PSC is presently working to develop a regulation to apply to this annual process, the PSC has never adopted a regulation detailing the standards, etc. for recertifying ILECs for ETC purposes. If the SCTC's logic were correct, which it is not, then the PSC would not have had the authority to annually recertify to the FCC that these ILECs qualified to remain eligible telecommunication carriers, as it has done over the years, and such recertifications would not be valid.

This is not the case like *Motor Inn, Inc. vs. SC Coastal Council*, 306 SC 488, 413 SE2d 13 (1991) where the Court held that the Coastal Council's assessment test was invalid because it was never promulgated by regulation. The Court noted that the enabling legislation stated that the Council "shall" promulgate regulations. See also *Edisto Aquaculture v. SCWMRD*, 311 SC 37, 426 SE2d 753 (1993).

III. CONCLUSION

Alltel strongly supports the Commission's unanimous concern about further delaying consideration of pending ETC designations, as well as any applications that may be brought during the pendency of the Commission's proposed regulations.

The regulatory process in South Carolina is a cumbersome process and it can take, under

the best of circumstances, well over a year to enact a regulation. Further complicating matters, a filing error by the Legislative Council has added yet another year to the proposed PSC ETC Regulation.

Further delay will result in additional millions of dollars paid by residents of this state flowing to improve wireless service in some 40 other states which have designated ETC carriers.

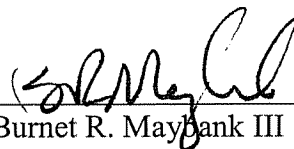
Ironically, the chief opponent of ETC designation comes from wireline providers who receive extensive ETC support without the benefit of a PSC Regulation.

By definition, the chief beneficiaries of prompt ETC designation will be the countless residents of this state who reside in rural and expensive service areas. They no less deserve affordable and reliable wireless service as the residents of Charleston, Columbia and Greenville. Wireless service is no longer a luxury in South Carolina and literally serves a life saving function during times of natural and other disasters.

Alltel accordingly strongly supports the Commission's determination to move forward on pending and to be filed ETC applications. The Commission should move swiftly to process all pending and future applications for ETC designation, as the citizens of South Carolina have been deprived of the benefits of competitive ETC designation for far too long. To the extent that applicants agree to meet the guidelines determined through this proceeding, the Commission should expeditiously grant applicants such ETC designation. Alltel strongly supports, with one exception as noted above, the Commission's decision to use the FCC's May 25, 2005 recommended guidelines.

Dated: April 19, 2007

Respectfully Submitted

A handwritten signature in black ink, appearing to read "Burnet R. Maybank III", is written over a horizontal line.

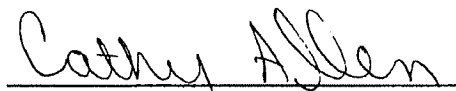
Burnet R. Maybank III
Member

CERTIFICATE OF SERVICE

I, Cathy A. Allen, hereby certify that on this 19th day of April 2007, copies of the foregoing **BRIEF OF ALLTEL COMMUNICATIONS, INC.** was placed in the United States mail, via first class, postage prepaid to:

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